

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State ex rel. Robert L. Adams v. Hon. Roger L. Perry, Judge, etc.;

Robert L. Adams v. David Ballard, Warden

Adams · No. 13-0096; 13-0422 · Decided November 12, 2013

SUMMARY

The West Virginia Supreme Court of Appeals consolidated a prohibition proceeding and an appeal arising from Robert L. Adams’s second state habeas corpus petition. The Court affirmed the dismissal without prejudice of the petition and the denial of appointed counsel and in forma pauperis status, concluding that the asserted grounds lacked adequate factual support and that prior adjudication barred one claim. The Court also denied the requested writ of prohibition, holding that the circuit court could require payment of a filing fee under West Virginia Code § 53-4A-4(a).

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	November 12, 2013
DOCKET	13-0096; 13-0422
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court consolidated an original-jurisdiction petition for a writ of prohibition challenging an order requiring payment of filing fees for a second habeas petition with an appeal from the dismissal without prejudice of that second habeas petition and the denial of requests for appointed counsel and in forma pauperis status.
STANDARD OF REVIEW	The final habeas disposition was reviewed for abuse of discretion, underlying factual findings for clear error, and legal questions de novo. A prohibition petition challenging whether a circuit court exceeded its legitimate powers was governed by the standard stated in State ex rel. Hoover v. Berger, 199 W.Va. 12, 483 S.E.2d 12 (1996).
PRECEDENTIAL VALUE	Published memorandum decision; the opinion states that it is issued under Rule 21.

PARTIES

Robert L. Adams v. Hon. Roger L. Perry, Judge, David Ballard,
Warden, Mt. Olive Correctional Complex

TOPICS

state post-conviction relief successive petitions writ of certiorari appellate procedure pleadings

PRACTICE AREAS

state post-conviction habeas corpus writs appellate procedure criminal procedure

QUESTIONS PRESENTED

1. Whether the circuit court properly dismissed Adams's second habeas petition without prejudice because one ground was barred by res judicata and the other grounds lacked adequate factual support under Rule 4(c) of the West Virginia Rules Governing Post-Conviction Habeas Corpus Procedure.
2. Whether the circuit court abused its discretion by denying appointment of counsel after determining that the second habeas petition was without merit.
3. Whether the circuit court had authority under West Virginia Code § 53-4A-4(a) to determine Adams's eligibility to proceed in forma pauperis at the outset of the habeas case and require payment of a filing fee.
4. Whether prohibition should issue to prevent enforcement of the order requiring collection of the filing fee.

HOLDINGS

1. A ground for habeas relief that was fully and finally adjudicated in a prior habeas proceeding is barred by res judicata in a subsequent habeas petition.
2. A circuit court may dismiss a habeas petition without prejudice under Rule 4(c) when the petition merely recites grounds for relief without adequate factual support.
3. The circuit court did not err in denying appointment of counsel when the second habeas petition was without merit.
4. West Virginia Code § 53-4A-4(a) permits the circuit court to determine a habeas petitioner's eligibility to proceed in forma pauperis before or in conjunction with deciding whether to appoint counsel; the court's finding that the petition's grounds were without merit adequately supported requiring payment of a filing fee.

KEY QUOTATIONS

“In reviewing challenges to the findings and conclusions of the circuit court in a habeas corpus action, we apply a three-prong standard of review.” (3)

“A judgment denying relief in post-conviction habeas corpus is res judicata on questions of fact or law which have been fully and finally litigated and decided” (4)

FACTUAL BACKGROUND

Two people were found murdered in Logan County on March 14, 1997. Adams was convicted of two counts of felony murder and one count of conspiracy to commit aggravated robbery and was sentenced to two consecutive life terms without parole plus a consecutive one-to-five-year term. After an unsuccessful first habeas proceeding, Adams filed a second habeas petition asserting previously adjudicated prosecutorial-misconduct allegations, judicial-disqualification concerns, and witness-tampering allegations, but supplied inadequate factual support for the latter grounds.

PROCEDURAL HISTORY

Adams was convicted of two counts of felony murder and one count of conspiracy to commit aggravated robbery and received consecutive sentences, including two life sentences without parole. His direct appeal and first state habeas proceeding were unsuccessful. He filed a second habeas petition in 2012; the circuit court ordered collection of filing fees and later dismissed the petition without prejudice for lack of adequate factual support, while denying appointment of counsel and in forma pauperis status. Adams appealed and separately sought prohibition against enforcement of the fee order.

DISPOSITION

other

CASES CITED

- Losh v. McKenzie, 166 W.Va. 762, 277 S.E.2d 606 (1981)
- Markley v. Coleman, 215 W.Va. 729, 601 S.E.2d 49 (2004)
- Mathena v. Haines, 219 W.Va. 417, 633 S.E.2d 771 (2006)
- State v. Julius, 185 W.Va. 422, 408 S.E.2d 1 (1991)
- Perdue v. Coiner, 156 W.Va. 467, 194 S.E.2d 657 (1973)
- State ex rel. Hoover v. Berger, 199 W.Va. 12, 483 S.E.2d 12 (1996)